

MEDICINE BOARD[653]

Notice of Intended Action

**Proposing rule making related to the Iowa physician health committee
and the Iowa physician health program and providing an opportunity for public comment**

The Board of Medicine hereby proposes to amend Chapter 14, “Iowa Physician Health Committee,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code section 272C.3.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 272C.3.

Purpose and Summary

As part of its regular review of administrative rules, the Iowa Physician Health Program (IPHP) staff proposes these amendments to streamline, clean up, and clarify the rules governing the program and Iowa Physician Health Committee (IPHC).

Among other things, these amendments:

- Add the following defined terms: “IPHP,” “applicant,” “licensee,” and “mental disorder.”
- Update the definition of “impairment” to align with the definition used by the Federation of State Medical Boards and Federation of State Physician Health Programs.
- Specify that the Board’s Medical Director or Executive Director may serve as a member of the IPHC.
- Specify that the Board’s Medical Director or Co-Chairperson can provide guidance to staff in between meetings.
- Clarify that the length of a contract with the IPHP may range from one to five years depending on the individual licensee’s circumstances.

Fiscal Impact

This rule making has no fiscal impact to the State of Iowa.

Jobs Impact

After analysis and review of this rule making, no impact on jobs has been found.

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Board for a waiver of the discretionary provisions, if any, pursuant to 653—Chapter 3.

Public Comment

Any interested person may submit written or oral comments concerning this proposed rule making. Written or oral comments in response to this rule making must be received by the Board no later than 4:30 p.m. on September 4, 2020. Comments should be directed to:

Joseph Fraioli
Iowa Board of Medicine
400 SW Eighth Street, Suite C
Des Moines, Iowa 50309
Phone: 515.281.3614
Email: joseph.fraioli@iowa.gov

Public Hearing

A public hearing at which persons may present their views orally or in writing will be held via Google Meet at the link below. Participants may also call in via phone at the following phone number: (US) +1 305.912.3976. When prompted, enter PIN: 639 231 381#. Please mute your phones or microphones upon entering the meeting.

September 2, 2020
1 to 2 p.m.

meet.google.com/teb-xwca-kgk
Google Meet Location

Persons who wish to make oral comments at the public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rule making.

Any persons who intend to attend the public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Board and advise of specific needs.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rule-making actions are proposed:

ITEM 1. Amend **653—Chapter 14**, title, as follows:

IOWA PHYSICIAN HEALTH COMMITTEE—IOWA PHYSICIAN HEALTH PROGRAM

ITEM 2. Amend rules 653—14.1(272C) to 653—14.6(272C) as follows:

653—14.1(272C) Iowa physician health committee—Iowa physician health program.

14.1(1) *Iowa physician health committee.* Pursuant to the authority of Iowa Code section 272C.3(1) “k,” the board establishes the Iowa physician health committee, ~~formerly known as the impaired physician review committee.~~

14.1(2) *Iowa physician health program.* To assist in executing its duties under Iowa Code section 272C.3(1) “k,” the committee establishes the Iowa physician health program. The program shall operate under the direction of the committee and shall be supervised by the executive director of the board.

653—14.2(272C) Definitions.

“Applicant” means any person who has submitted an application to the board for a license to practice medicine, acupuncture, or genetic counseling.

“Board” means the board of medicine of the state of Iowa.

“Health contract” or “contract” means the written document executed by an applicant or licensee and the IPHC which establishes the terms for participation in the Iowa physician health program.

“Impairment” means an inability, or significant potential for inability, to practice with reasonable safety and skill as a result of alcohol or drug abuse, dependency, or addiction, or any mental or physical disorder or disability. For the purposes of this program, “impairment” does not include sexual dysfunction, sexual addiction, sexual compulsivity, paraphilia, or other sexual disorder. any of the

following that renders or, if left untreated, is reasonably likely to render a licensee unable to practice their profession with reasonable skill and safety:

1. Mental disorder;

2. Physical illness or condition, including but not limited to those illnesses or conditions that would adversely affect cognitive, motor, or perceptive skills; or

3. Substance-related disorder, including abuse of or dependence on drugs or alcohol.

“Initial Agreement agreement” means the written document establishing the initial terms for participation in the Iowa physician health program.

“IPHC” or “committee” means the Iowa physician health committee.

“IPHP” or “program” means the Iowa physician health program.

“Licensee” means any person who has an Iowa license to practice medicine, acupuncture, or genetic counseling issued by the board.

“Mental disorder” means any disorder, condition, illness, or syndrome characterized by a clinically significant disturbance in an individual’s cognition, emotion regulation, or behavior that reflects a dysfunction in the psychological, biological, or developmental processes underlying mental functioning. Mental disorders are usually associated with significant distress or disability in social, occupational, or other important activities.

“Participant” means an applicant or licensee who does any of the following: self-reports an impairment to the Iowa physician health program, is referred to the Iowa physician health program by the board pursuant to 653—14.11(272C), signs an initial agreement with the Iowa physician health committee, or signs a contract with the Iowa physician health committee.

“Prospective participant” means a licensee or applicant who self-reports an impairment to the Iowa physician health program or is referred to the Iowa physician health program by the board pursuant to 653—14.11(272C).

“Referral by the board” means the board has determined, with or without having taken disciplinary action, that the applicant or licensee is an appropriate candidate for participation in the IPHP pursuant to 653—14.11(272C).

“Self-report” means an applicant’s or a licensee’s providing written notification to the IPHC that the applicant or the licensee has been, is, or may be impaired. Information related to an impairment or a potential impairment which is provided on a license application or renewal form may be considered a self-report upon the request of the applicant or licensee and authorization from the board and agreement by the IPHC.

653—14.3(272C) Purpose. ~~The IPHC assists and monitors and IPHP assist and monitor~~ the recovery, rehabilitation, or maintenance of licensees who self-report impairments or are referred by the board pursuant to 653—14.11(272C) and, as necessary, ~~notifies~~ notify the board in the event of noncompliance with contract provisions. ~~The IPHC is and IPHP both an~~ advocate for licensees’ health and ~~a means to protect~~ promote and protect the health and safety of the public.

653—14.4(272C) Organization of the committee. The board shall appoint the members of the IPHC.

14.4(1) Membership. The membership of the IPHC includes, but is not limited to:

a. ~~The executive medical director of the board or the director’s designee from the board’s staff~~ executive director of the board;

b. to e. No change.

14.4(2) Officers. ~~The IPHC shall elect a chairperson and a co-chairperson or a vice chairperson~~ two co-chairpersons at the last meeting of each calendar year to begin serving a one-year term on January 1.

a. ~~The chairperson and~~ A co-chairperson ~~are~~ is responsible for presiding over IPHC meetings.

b. ~~The medical director and co-chairpersons are~~ responsible for offering guidance and direction to staff between regularly scheduled committee meetings, including negotiation and execution of initial agreements, contracts, and program descriptions and interim restrictions on practice on behalf of the committee. The IPHC retains authority to review all interim decisions at its discretion.

~~b. c.~~ ~~The vice chairperson~~ A co-chairperson is responsible for providing guidance and direction to staff between regularly scheduled committee meetings if the ~~chairperson~~ medical director is unavailable or unable to assist in a particular matter.

14.4(3) Terms. Committee members, except the ~~executive director~~ medical director, shall be appointed for three-year terms, for a maximum of three terms. Terms shall expire on December 31 of the third year of the term.

653—14.5(272C) Eligibility. To be eligible for participation in the IPHP, an applicant or a licensee must self-report an impairment or potential impairment directly to the IPHP or be referred by the board for an impairment or potential impairment pursuant to 653—14.11(272C) and be determined by the IPHC to be an appropriate candidate for participation in the IPHP.

14.5(1) No change.

14.5(2) A ~~participant~~ prospective participant may be determined to be ineligible to participate in the program as a self-reporter or a referral from the board if the committee finds sufficient evidence of any of the following:

a. The ~~participant~~ prospective participant provided inaccurate, misleading, or fraudulent information or failed to fully cooperate with the IPHC.

b. The ~~participant~~ prospective participant fails to sign a contract when recommended by the IPHC.

c. The IPHC determines it will be unable to assist the ~~participant~~ prospective participant.

14.5(3) No change.

653—14.6(272C) Type of program. The IPHP is an individualized recovery, rehabilitation, or maintenance program designed to meet the specific needs of the participant. The committee, in consultation with ~~an IPHC-approved evaluator~~ committee-approved evaluators and treatment providers, shall determine the type of recovery, rehabilitation, or maintenance program required to treat the participant's impairment based on the diagnosis and treatment recommendations from the evaluator or treatment provider. The IPHC shall prepare a contract, to be signed by the participant, that shall provide a detailed description of the goals of the program, the requirements for successful participation, and the participant's obligations therein. The IPHC may delegate its obligations and duties under these rules to the IPHP staff and the medical director as appropriate pursuant to policies and procedures adopted by the IPHC.

ITEM 3. Amend subrule 14.7(1) as follows:

14.7(1) Duration. ~~The length of time a participant may participate in the program shall be determined by the IPHC in accordance with the following:~~ Length of participation in the program can vary from one to five years depending on the individual participant's diagnosis, recommendations from approved evaluators and treatment providers, and the IPHC following a review of all relevant information. A contract shall only terminate once the IPHC has determined that the licensee is no longer impaired.

a. ~~Participation in the program for participants impaired as a result of alcohol or drug dependency or addiction is set at a minimum of five years. The IPHC may offer a contract with a shorter duration to a participant who can demonstrate successful participation in another state's physician health program, who can document similar experience, or who, as a board referral, has successfully completed a portion of the monitoring period established in the board order.~~

b. ~~Length of participation in the program for participants with impairments resulting from mental or physical disorders or disabilities will vary depending upon the recommendations provided by an approved evaluator and the determination of the IPHC following review of all relevant information.~~

ITEM 4. Amend rule 653—14.11(272C) as follows:

653—14.11(272C) Board referrals to the Iowa physician health program.

14.11(1) Eligibility for board referral to IPHP. The board may refer to the IPHP a licensee or applicant for whom the following circumstances apply:

a. No change.

b. The board determines that the applicant or licensee is an appropriate candidate for participation in the IPHP.

~~NOTE: A licensee who is the subject of a formal board disciplinary order relating to an impairment must demonstrate a sufficient period of compliance with the disciplinary order before referral to the IPHP.~~

c. No change.

14.11(2) Referral process.

a. to d. No change.

~~e.—Upon notification that the contract has been finalized for a participant who is the subject of a formal board disciplinary order relating to the impairment, the board shall file an order referring the licensee to the IPHP, and that order shall be a public record.~~

~~f. e.~~ The IPHC shall notify the board upon the participant's successful completion of the program. The board may file an order recognizing the participant's successful completion of the program in cases where the referral was included in a public record. An order recognizing completion of the program shall be a public record.

~~g. f.~~ Referral of an applicant or licensee by the board to the IPHP shall not relieve the board of any duties of the board and shall not divest the board of any authority or jurisdiction otherwise provided. Upon referral, the applicant or licensee shall be subject to the provisions of 653—Chapter 14. Specifically, the applicant or licensee shall be subject to board review and potential formal disciplinary action pursuant to subrule 14.7(2) for noncompliance with the provisions of the IPHP health contract.

~~14.11(3) Investigation and disciplinary action on referrals. Rescinded IAB 6/30/10, effective 8/4/10.~~

ITEM 5. Amend **653—Chapter 14**, implementation sentence, as follows:

These rules are intended to implement Iowa Code section 272C.3 as amended by 2003 Iowa Acts, House File 641, section 6.